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8
9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

12
13 **RITESH TANDON, et al.,**

14 Plaintiffs,

15 v.

16 **GAVIN NEWSOM, et al.,**

17 Defendants.
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5:20-cv-07108-LHK

**STIPULATION REGARDING FINAL
JUDGMENT ENTERING PERMANENT
INJUNCTION, AWARDING
ATTORNEY'S FEES, AND DISMISSING
ACTION**

Judge: The Honorable Lucy H. Koh
Action Filed: October 13, 2020

1 Plaintiffs Ritesh Tandon, Karen Busch, Terry Gannon, Carolyn Gannon, Jeremy Wong,
2 Julie Evarkiou, Dhruv Khanna, Connie Richards, Frances Beaudet, and Maya Mansour and State
3 Defendants Gavin Newsom, in his official capacity as the Governor of California; Rob Bonta, in
4 his official capacity as the Attorney General of California; and Tomás J. Aragón, in his official
5 capacity as State Public Health Officer and State Director of the California Department of Public
6 Health, stipulate as follows:

7 1) In October 2020, Plaintiffs filed the complaint in this case against Defendants,
8 challenging State and County restrictions on religious gatherings at private homes and political
9 gatherings at private homes, and capacity restrictions and personal protective equipment
10 requirements on places of business, imposed in connection with the COVID-19 pandemic. The
11 parties have litigated this matter in this Court, the Ninth Circuit, and the Supreme Court since that
12 filing;

13 2) Although State Defendants continue to dispute Plaintiffs' claims, State Defendants as
14 well as Plaintiffs wish to resolve this matter now and hereby consent to entry of judgment in favor
15 of Plaintiffs with respect to their free exercise claims (Count 2 of the Complaint), and to entry of
16 a permanent injunction and order of dismissal in the form submitted as Exhibit A herewith;

17 3) Entry of the stipulated permanent injunction and order of dismissal will fully resolve this
18 civil action and related appeal. After this Court's entry of the stipulated injunction, Plaintiffs will
19 dismiss their pending appeal of this Court's denial of preliminary injunctive relief.

20 4) The stipulated permanent injunction will be entered under Federal Rule of Civil
21 Procedure 65 and will constitute final judgment in this matter. Except as provided in the
22 stipulated permanent injunction, Plaintiffs agree to the dismissal of their free exercise claims
23 (Count Two) **with prejudice**.

24 5) On June 11, 2021, Governor Newsom signed Executive Order N-07-21, which rescinded
25 Executive Order N-60-20—the order that had directed issuance of the “Blueprint for a Safer
26 Economy.” Also on June 11, 2021, the State Public Health Officer, Dr. Aragón issued a State
27 Public Health Officer Order, which takes effect on June 15, 2021, that supersedes prior State
28 Public Health Officer Orders, including the Orders that implemented the Stay at Home Order

(March 19, 2020) and the Blueprint for a Safer Economy (August 28, 2020). *See* <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Beyond-Blueprint.aspx>. The June 11 Order removes all prior mandatory public health directives related to COVID-19 and replaces them with limited mandatory restrictions related only to face covering requirements and large-scale indoor events, as well as directives for K-12 schools, child care settings, and other settings involving children and youth. Thus, as of June 15, 2021, there are no such public health restrictions on indoor and outdoor home political gatherings, indoor and outdoor home political fundraisers, and indoor and outdoor home salon-style political gatherings, nor on ordinary business operations.

6) Given that the challenged restrictions were lifted on June 15, 2021, as described in paragraph 5 above, Plaintiffs further agree to the dismissal of their free speech, substantive due process, and equal protection claims (Counts One, Three, and Four) **without prejudice**; if the numerical and capacity restrictions described in paragraph 5 above are reimposed, Plaintiffs may refile those claims in a new action and litigate them on their merits.

7) The California Department of Public Health shall pay Plaintiffs the sum of \$500,000 for Plaintiffs' reasonable attorney's fees and costs necessarily incurred in this case. Pursuant to 28 U.S.C. § 1961, post-judgment interest shall begin to accrue 90 days from the date the Court signs the final judgment.

8) This Court should retain jurisdiction over this matter for the purpose of implementing and enforcing the final judgment.

1 Dated: June 21, 2021

Respectfully submitted,

2 ROB BONTA
Attorney General of California
3 MARK R. BECKINGTON
Supervising Deputy Attorney General
4

5 *s/ Lara Haddad*
6 LARA HADDAD
Deputy Attorney General
7 *Attorneys for State Defendants*

8 EIMER STAHL LLP
9

10 */s Robert E. Dunn*
11 By: Robert E. Dunn
Attorneys for Plaintiffs
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CERTIFICATE OF SERVICE

Case Name: **Tandon, Ritesh, et al. v. Gavin
Newsom, et al.**

Case No. **5:20-cv-07108**

I hereby certify that on June 22, 2021, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

STIPULATION REGARDING FINAL JUDGMENT ENTERING PERMANENT INJUNCTION, AWARDING ATTORNEY'S FEES, AND DISMISSING ACTION

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on June 22, 2021 at Los Angeles, California.

Beth L. Gratz
Declarant

Beth L. Gratz
Signature

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RITESH TANDON, et al.,

Plaintiffs,

v.

GAVIN NEWSOM, et al.,

Defendants.

Case No. 5:20-cv-07108-LHK

~~[PROPOSED]~~ **AMENDED FINAL
JUDGMENT ENTERING
PERMANENT INJUNCTION,
AWARDING ATTORNEY'S FEES AND
COSTS, AND DISMISSING ACTION**

It is hereby **ORDERED** that Defendant Gavin Newsom, in his official capacity as Governor of the State of California, all State officers, agents, employees, and all other persons in active concert or participation with him, are hereby permanently enjoined state-wide from issuing or enforcing regulations issued in connection with the COVID-19 State of Emergency declared on March 4, 2020 that impose:

- (1) any capacity or numerical restrictions on religious worship services and gatherings at places of worship,¹ provided that if

¹ Including indoor and outdoor home religious gatherings, which in turn include bible studies, prayer meetings, and other worship gatherings.

(a) hospital admissions for individuals aged 1-17 suffering from COVID-19 rise at least 100% statewide, or at least 200% in a county with at least 10 hospitalizations in the prior week, in each of two consecutive weeks; or

(b) statewide daily case rates for COVID-19 rise above 25 cases per hundred thousand persons, and the statewide four-week total projected available adult intensive care unit bed capacity falls below 20%,

the State may impose capacity or numerical restrictions on religious worship services and gatherings at places of worship that are either identical to, or at least as favorable as, the restrictions imposed on other similar gatherings of similar risk, as identified by the Supreme Court in *Tandon v. Newsom*, 141 S. Ct. 1294 (2021), *South Bay United Pentecostal Church v. Newsom*, 141 S. Ct. 716 (2021), *Harvest Rock Church, Inc. v. Newsom*, 141 S. Ct. 1289 (2021), and *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63 (2020); and

(2) any new public health precautions on religious worship services and gatherings at places of worship not in the guidance that was in effect on June 14, 2021, unless those precautions are either identical to, or at least as favorable as, the precautions imposed on other similar gatherings of similar risk, as identified by the Supreme Court in *Tandon v. Newsom*, 141 S. Ct. 1294 (2021), *South Bay United Pentecostal Church v. Newsom*, 141 S. Ct. 716 (2021), *Harvest Rock Church, Inc. v. Newsom*, 141 S. Ct. 1289 (2021), and *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63 (2020).

This Order does not prohibit the State from issuing recommendations, best practices, precautions, or other measures, as long as such promulgations make clear to the public that they are voluntary and not enforceable.

It is further **ORDERED** that Plaintiffs should be and hereby are declared prevailing parties for purposes of 42 U.S.C. § 1988; the California Department of Public Health shall pay Plaintiffs the sum of \$500,000 for Plaintiffs' reasonable attorney's fees and costs necessarily incurred in this case. Pursuant to 28 U.S.C. § 1961, post-judgment interest shall begin to accrue 90 days from the date this Court signs this Order.

1 It is further **ORDERED** that the free exercise claims (Count Two) in this action are
2 otherwise dismissed with prejudice;

3 It is further **ORDERED** that the free speech claims, substantive due process claims, and
4 equal protection claims in this action (Counts One, Three, and Four) are dismissed without
5 prejudice; and

6 It is further **ORDERED** that this Court shall retain jurisdiction over this action for purposes
7 of implementing and enforcing the final judgment.

8 It is so **ORDERED**.

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11 Dated: June 24, 2021


The Honorable Lucy H. Koh

CERTIFICATE OF SERVICE

Case Name: **Tandon, Ritesh, et al. v. Gavin
Newsom, et al.**

Case No. **5:20-cv-07108**

I hereby certify that on June 22, 2021, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**[PROPOSED] FINAL JUDGMENT ENTERING PERMANENT INJUNCTION,
AWARDING ATTORNEY'S FEES AND COSTS, AND DISMISSING ACTION**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on June 22, 2021 at Los Angeles, California.

Beth L. Gratz
Declarant

Beth L. Gratz
Signature